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Approved: 

MATTHEW J.C. HELLMAN

Assistant United States Attorney

Before: THE HONORABLE BARBARA C. MOSES  
 United States Magistrate Judge  
 Southern District of New York

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UNITED STATES OF AMERICA      : COMPLAINT
                                :
                                : Violation of
                                : 21 U.S.C. § 846
                                :
MODESTO ARIAS SOTO,           : COUNTY OF OFFENSE:
                                : NEW YORK
                                :
Defendant.                    :
                                :
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SOUTHERN DISTRICT OF NEW YORK, ss.:

CRAIG SMITH, being duly sworn, deposes and says that he is a Special Agent with the Drug Enforcement Administration ("DEA"), and charges as follows:

COUNT ONE

(Conspiracy to Distribute Narcotics)

1. In or about July 2019, in the Southern District of New York and elsewhere, MODESTO ARIAS SOTO, the defendant, and others known and unknown, intentionally and knowingly did combine, conspire, confederate, and agree together and with each other to violate the narcotics laws of the United States.

2. It was a part and an object of the conspiracy that MODESTO ARIAS SOTO, the defendant, and others known and unknown, would and did distribute and possess with intent to distribute controlled substances, in violation of Title 21, United States Code, Section 841(a)(1).

3. The controlled substances that MODESTO ARIAS SOTO, the defendant, conspired to distribute and possess with intent to distribute (i) one kilogram and more of mixtures and substances containing a detectable amount of heroin, and (ii) 400 grams and more of mixtures and substances containing a

detectable amount of fentanyl, in violation of Title 21, United States Code, Section 841(b)(1)(A).

(Title 21, United States Code, Section 846.)

The bases for my knowledge and the foregoing charge are, in part, as follows:

4. I am a Special Agent with the DEA. This affidavit is based on my personal participation in the investigation of this matter, my conversations with other law enforcement agents, my interviews of witnesses, as well as my examination of reports and records. Because this affidavit is being submitted for the limited purpose of demonstrating probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

5. Based on my own observations as part of the investigation, my conversations with other law enforcement officers, and my review of reports, I have learned the following, in substance and in part:

a. On or about July 1, 2019, during the course of an ongoing investigation regarding narcotics distribution, I and other law enforcement agents conducted surveillance of a target subject in the vicinity of West 105th Street and Columbus Avenue in New York, New York.

b. In the course of this surveillance, I observed MODESTO ARIAS SOTO, the defendant, exit a residential building while carrying a drawstring closure gym bag (the "Bag") which appeared to be weighted, and approach a vehicle parked on West 105th Street. I and other law enforcement agents identified ourselves as members of law enforcement and approached ARIAS SOTO, who immediately handed the Bag to a law enforcement agent.

c. Following the approach by law enforcement, ARIAS SOTO consented to a search of the Bag. During a search of the Bag, I observed two wrapped, compressed brick-shaped packages, each containing a powdery substance.

d. Law enforcement agents conducted a field test of the powdery substance found inside one of the packages,

("Package-1"), and it tested positive for the presence of heroin. The second package ("Package-2," and, collectively with Package-1, the "Packages") was also tested for the presence of heroin, and the test was negative. Based on my training and experience in the recognition and identification of controlled substances, my investigation, and statements made by the defendant, as discussed below, I believe Package-2 to contain fentanyl.

e. Law enforcement weighed the Packages and found they each individually weighed approximately 1 kilogram.


f. After ARIAS SOTO was arrested, he was read his *Miranda* rights. ARIAS SOTO waived his rights, and stated, in substance and in part, the following:

i. ARIAS SOTO knew the Bag contained narcotics, but that he was uncertain what specific type of narcotics they were.

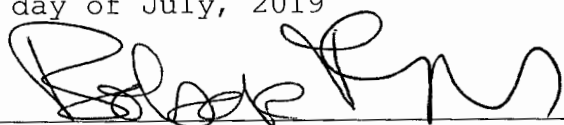
ii. ARIAS SOTO was on his way to conduct a narcotics-related transaction in which he would exchange the contents of the Bag for approximately \$90,000.

iii. ARIAS SOTO was conducting the drug transaction on behalf of a third party, who was located outside the United States.

WHEREFORE, deponent respectfully requests that MODESTO ARIAS SOTO, the defendant, be imprisoned or bailed, as the case may be.

  
CRAIG SMITH  
Special Agent  
Drug Enforcement Administration

Sworn to before me this  
1st day of July, 2019

  
THE HONORABLE BARBARA C. MOSES  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK